Dated: December 28, 1994.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 95–516 Filed 1–9–95; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7109

[AK–932–1430–01; AA–6664]

Withdrawal of Public Lands for English Bay Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 16,947.99 acres of public lands located within the Kenai Fjords National Park or the Alaska Maritime National Wildlife Refuge, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to Section 22(j)(2) of the Alaska Native Claims Settlement Act. This action also reserves the lands for selection by the English Bay Corporation, the village corporation for English Bay. This withdrawal is for a period of 120 days; however, any lands selected shall remain withdrawn by the order until they are conveyed. Any lands described herein that are not selected by the corporation will remain withdrawn as part of the Kenai Fjords National Park or the Alaska Maritime National Wildlife Refuge, pursuant to the Alaska National Interest Lands Conservation Act, and will be subject to the terms and conditions of any other withdrawal of record.

EFFECTIVE DATE: January 10, 1995.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands located within the Kenai Fjords National Park or the Alaska Maritime National Wildlife Refuge, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and are hereby reserved for selection under Section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1988), by the English Bay Corporation, the village corporation for English Bay:

Seward Meridian

T. 3 S., R. 2 W., (unsurveyed)
Secs. 22, 23, 25, and 26;
Sec. 33, parcel B;
Secs. 35 and 36.
T. 4 S., R. 2 W., (unsurveyed)
Secs. 2 through 5, inclusive;
Sec. 11.
T. 5 S., R. 5 W., (unsurveyed)
Sec. 33.
T. 6 S., R. 4 W., (unsurveyed)
Sec. 7.
T. 6 S., R. 5 W., (unsurveyed)
Secs, 4, 9, 28, 29, 32, and 33.
T. 7 S., R. 5 W., (surveyed)
Sec. 3, lot 2;
Secs. 4, 8, 10, and 11.
T. 8 S., R. 6 W., (surveyed)
Secs. 7 through 12, inclusive;
Secs. 14 through 22, inclusive;
Secs. 27 through 34, inclusive.
T. 8 S., R. 7 W., (surveyed)
Secs. 24, 25, 35 and 36.

The areas described contain 16,947.99 acres.

2. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

3. This order constitutes final withdrawal action by the Secretary of the Interior under Section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make lands available for selection by the English Bay Corporation, to fulfill the entitlement of the village for English Bay under Section 12 and Section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988).

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any lands selected shall remain withdrawn pursuant to this order until they are conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Kenai Fjords National Park or the Alaska Maritime National Wildlife Refuge, pursuant to Sections 201(5), 206, 303(1) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 410(hh) and 668(dd) (1988); and will be subject to the terms and conditions of any other withdrawal of record.

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to Section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988), and this action is exempted from the National Environmental Policy Act of 1969, 42 U.S.C. 4321 note (1988), by Section 910 of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1638 (1988).

Dated: December 23, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–474 Filed 1–9–95; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–02; Notice 07]

RIN 2127–AF42

Federal Motor Vehicle Safety Standards; Fuel System Integrity of Compressed Natural Gas Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On April 25, 1994, NHTSA published a new Federal motor vehicle safety standard, Standard No. 303, *Fuel System Integrity of Compressed Natural Gas Vehicles.* The standard limits the amount of allowable CNG leakage after a crash test by limiting the post-crash pressure drop of the fuel system. Ford Motor Company, Chrysler Corporation, and the American Automobile Manufacturers Association, submitted petitions for reconsideration of the final rule. The issues raised in the petitions include the allowable pressure drop limit, submitted by Ford and Chrysler, and other pre-crash test conditions and procedures, submitted by AAMA. NHTSA is denying the petitions of Ford and Chrysler concerning pressure drop limit, and denying in part and granting in part the requests by AAMA.

DATES: Effective Date: The amendments made in this rule are effective September 1, 1995.

Petitions for Reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than February 9, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary R. Woodford, NRM–01.01, Special Projects Staff, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590 (202–366–4931).

SUPPLEMENTARY INFORMATION: On April 25, 1994, NHTSA published a new Federal motor vehicle safety standard (FMVSS) for the fuel system integrity of compressed natural gas (CNG) vehicles (59 FR 19648). The new standard, FMVSS No. 303, *Fuel System Integrity of Compressed Natural Gas Vehicles,* limits the amount of allowable CNG leakage after a crash test. This is done by placing a limit on the post-crash pressure drop of the fuel system. Vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less are subject to front, rear, and side impact crash tests. Schoolbuses with a GVWR greater than 10,000 pounds are subject to moving contoured barrier crash at any point and angle on the vehicle. The purpose of the new standard, which becomes effective September 1, 1995, is to reduce deaths and injuries caused by fires resulting from fuel leakage during and after crashes involving CNG vehicles.

Ford Motor Company (Ford), Chrysler Corporation (Chrysler), and the American Automobile Manufacturers Association (AAMA) submitted petitions for reconsideration of the final rule. The issues raised in the petitions include the post-crash pressure drop limit of the fuel system, and procedures and test conditions prior to crash testing. A discussion of each issue and the agency's response follows.

Pressure Drop Limit

The final rule, as specified in S5.2(a), sets the allowable pressure drop in the CNG fuel system one hour after any crash test as follows:

(1) 1062 kPa (154 psi), or

(2) 895 (T/V_{FS}), whichever is higher.

T is the average temperature of the test gas in degrees Kelvin, stabilized to ambient temperature before testing. Average temperature T is determined by measuring ambient temperature at the start of the test, and then every 15 minutes until the test time of 60 minutes is completed. The sum of the five ambient temperatures is then divided by five to yield average temperature T. S7.1.7 of the final rule specifies that ambient temperature is not to vary more than 5.6 °C (10 °F) during the course of the test. V_{FS} is the internal volume of the high pressure portion of the vehicle fuel system.

The other allowable pressure drop, 1062 kPa (154 psi), represents the smallest pressure drop measurable using existing pressure drop measurement technology is test gas temperature varies no more than 5.6 °C (10 °F). The agency established this level based on comments from AAMA and others in response to the agency's January 21, 1993 notice of proposed rulemaking (NPRM) (58 FR 5323). In its comments on that notice, AAMA stated that using a state-of-the-art capacitance type pressure transducer could still result in pressure drop measurement error of ±106.1 kPa (±15.4 psi) if test gas temperature varied no more than ±5.6 °C (±10 °F). This is due to the cumulative errors attributable to pressure transducer accuracy, thermal zero shift, thermal coefficient sensitivity, and analogue-digital conversion. These factors, coupled with the accepted engineering practice that measurement error should not exceed ten percent of the value being measured, led to the conclusion that pressure drops less than 1062 kPa (154 psi) should not be measured.

The above pressure drop established in the final rule represents the maximum allowable CNG leakage, 895 (T/V_{FS}), within the limits of current pressure drop measurement technology, 1062 kPa (154 psi).

Both Ford and Chrysler petitioned the agency for reconsideration of the above pressure drop limits in S5.2(a). Ford stated that it believes the agency erred by disregarding certain information provided by AAMA in its response to the January 1993 NPRM (58 FR 5323). Specifically, AAMA stated that ''* * * a 10 °F change in the temperature of the test gas would result in a 60 psi change in the pressure of the test gas.'' Noting that the final rule allows the ambient temperature to vary as much as 5.6 °C (10 °F) during the test, Ford stated that a 10 °F drop in temperature could result in a 60 psi pressure drop even with zero leakage. Thus, according to Ford, the pressure drop limits in the final rule are, in effect, reduced by 60 psi when the ambient temperature drops 10 °F and increased by 60 psi when the ambient temperature increases 10 °F during the test. Ford asserted that the pressure drop limits are, therefore, not reasonable, practicable, or stated in objective terms as required by statute, because they present arbitrary limits that vary depending on whether ambient temperature decreases or increases. Ford further stated that an appropriate corrective action would be to amend S5.2(a) so that it states, ''For all vehicles, the pressure drop in the high pressure portion of the fuel system, *excluding pressure changes due to changes in the temperature of the test gas,* expressed in * * *.'' Ford's recommended language is underlined. Thus, Ford's alternative would eliminate that component of any pressure drop which is due to test gas temperature change.

Chrysler, in its petition, provided an almost identical rationale to that of Ford, stating that the pressure drop limits specified in the final rule do not accurately measure fuel leakage when the internal temperature of the gas causes change to the pressure within the fuel system. However, Chrysler's suggested corrective action differs from that of Ford. Chrysler requested that the agency amend the pressure drop limits in the final rule to incorporate the 60 psi adjustment needed to compensate for the possible change in gas temperature. Under Chrysler's request, the amended pressure drop limits in S5.2(a) would be:

(1) 1476 kPa (214 psi), or

(2) 895 (T/V_{FS}) + 414 kPa (60 psi), whichever is higher.

Chrysler stated that ''[t]his would provide the needed compensation without the added difficulty of measuring gas temperature within the high pressure fuel system, which is difficult, impracticable, and risks compromising the fuel system integrity.''

After reviewing Ford's and Chrysler's petitions for reconsideration about permissible pressure drop, NHTSA has determined that the requested modifications to S5.2(a) would be inappropriate. NHTSA continues to believe that the pressure drop limits and test procedure established in the final rule are the most appropriate and feasible, and that they provide a relatively simple and accurate method to determine CNG fuel leakage. The agency believes that under real world test conditions, any variation in test gas temperature will not significantly affect test results.

NHTSA notes that because CNG is a gas, and not a liquid, measuring a safe level of allowable leakage after a crash test is much more complex than measuring similar levels for liquid fuels. This is because of the relationship between the temperature and pressure of a gas. The two are directly proportional. A change in either, pressure or temperature, directly affects the other.

In arriving at the allowable pressure drop limit and test procedure established in the final rule, NHTSA addressed the issue of temperature and pressure, along with other related issues

raised by commenters on the January 1993 NPRM. These included whether to measure test gas temperature during the 60-minute period following barrier impact, whether to specify an ambient test temperature, the accuracy of available pressure drop measurement technology, and the time period over which pressure drop is measured. These, along with commenters' concerns, presented complex, and, in some cases, competing issues to resolve. There were a variety of possible solutions, some more feasible than others, to the problem of measuring CNG fuel system leakage.

Contrary to the assertion made by Ford in its petition, the agency considered the information provided by AAMA about the effect of temperature on pressure. That information is specifically referenced in the preamble to the final rule (59 FR 19652). In addition, the agency noted in the preamble that several commenters, including AAMA, stated that temperature variations should be compensated for when conducting the crash test. However, neither AAMA nor other commenters suggested any method to correct for this. After reviewing the components, NHTSA decided not to specify an ambient test temperature, but to limit the amount of ambient temperature variation during the 60-minute test period to 5.6 °C (10 °F). A temperature variation exceeding this amount will invalidate the test results. The agency noted that, ''Without such control, a large change in temperature could artificially affect the test results.'' NHTSA continues to believe that this test condition will sufficiently minimize changes in test gas temperature, as well as pressure drop measurement accuracy.

NHTSA appreciates the concerns expressed by Ford and Chrysler in their petitions. However, as noted above, under real world test conditions, any variation in test gas temperature will not significantly affect test results. The agency believes there are three leakage scenarios that could potentially occur during the 60-minute test period following barrier impact: No leak, a large leak, and a small or marginal leak condition. In the case of no leak, Ford and Chrysler stated in their petitions that a 5.6 °C (10 °F) drop in ambient temperature could result in a 60 psi pressure drop even though there is no leakage. However, since the allowable pressure drop established in the final rule is at least 1062 kPa (154 psi), a 60 psi pressure drop will not affect compliance test results since it is well below the amount allowed in the final rule. Similarly, in the case of a large leak, any change in test gas temperature should not influence compliance test results, since all or most of the gas will leak out during the 60-minute test period, thereby making a non-compliance obvious. Based on supplemental information which the agency obtained by telephone from Ford and Blue Bird Body Company on the NPRM, the agency believes these two conditions, no leak or a large leak, will account for most of the leakage scenarios after real world CNG vehicle crash tests. However, in the event there is a slow leak, NHTSA believes that here, too, test gas temperature will remain relatively constant during testing, due to thermal contact between the test gas and fuel container walls. Any change in test gas temperature will tend to be offset by the temperature or thermal energy of the surrounding container walls, which along with the test gas have been stabilized to ambient temperature prior to testing.

NHTSA rejects Ford's recommendation that the final rule exclude pressure changes due to test gas temperature changes, because it would require that test gas temperature be measured. NHTSA believes that this would unnecessarily result in a more costly and complex test procedure. Further, it could make the fuel system more vulnerable to leakage in a crash, since an additional fuel system measurement fitting may be required. In its petition for reconsideration, Chrysler referred to this as ''* * * the added difficulty of measuring gas temperature within the high pressure fuel system, which is difficult, impracticable, and risks compromising the fuel system integrity.'' In addition, supplemental information which the agency obtained by telephone from Ford indicates that measuring gas temperature in a CNG fuel system is not always accurate.

NHTSA also rejects Chrysler's recommendation that an additional 60 psi be added to the allowable pressure drop in the final rule. In the case of an allowable pressure drop of 1062 kPa (154 psi), adopting Chrysler's request would have raised this level by approximately 40 percent. The agency believes that that addition could make the allowable pressure drop levels unsafe, since it would allow more fuel leakage. This would be clearly inconsistent with the agency's goal of establishing a minimum leakage requirement that is as close to a no leakage requirement as possible while still being readily measurable.

For the above reasons, NHTSA denies the requests of Ford and Chrysler regarding pressure drop.

Fill Condition

As part of the test conditions prior to CNG vehicle crash testing, S7.1.1 of Standard No. 304 specifies that, ''Each fuel storage container is filled to 100 percent of service pressure with nitrogen, N_2.'' S4 states that, ''Service pressure means the internal pressure of a CNG fuel container when filled to design capacity with CNG at 20° Celsius (68° Fahrenheit).''

In its petition, AAMA stated that since the final rule places no absolute limits on the ambient temperatures at which testing may be performed, but merely requires that ambient temperature not change more than 10 °F during the course of the test, fuel storage containers will not always be filled at and stabilized to a temperature of 20° Celsius (68° Fahrenheit). According to the petitioner, the fill pressure to be used for ambient temperatures other than 20° Celsius (68° Fahrenheit) is unclear and therefore not reasonable, practicable, or stated in objective terms. AAMA further stated that an appropriate corrective action would be to amend S7.1.1 of the Standard to state that, ''Each fuel storage container is filled with nitrogen, N_2, to 100 percent of service pressure *adjusted for ambient temperature.*'' AAMA's suggested language is italicized.

After reviewing AAMA's petition for reconsideration about fill pressure, NHTSA has determined that that organization's requested modification to S7.1.1 would be inappropriate.

The agency's purpose in specifying that CNG containers be filled to 100 percent of service pressure in S7.1.1 is to provide a reference point for the fill condition from which crash tests are performed, e.g., 20,684 kPa (3000 psi) at 20 °C (68 °F). NHTSA recognizes that since the final rule does not specify an ambient temperature at which crash testing is performed, fuel containers will not always be filled and stabilized to 20 °C (68 °F). This will result in CNG container pressures which are different than if testing were performed at 20 °C (68 °F), because of the relationship between gas temperature and pressure. Thus, manufacturers may fill and stabilize the CNG containers prior to testing to a pressure that is adjusted for ambient temperature. The final rule does not prohibit this. However, that pressure, which is adjusted for ambient temperature, must be such that if ambient temperature were 20 °C (68 °F), pressure in the CNG containers would be equal to service pressure. Since the final rule does not prohibit this adjustment for ambient temperature prior to testing, NHTSA sees no need to

adopt the revised language suggested by AAMA. Therefore, AAMA's petition concerning fill condition is denied.

Pressurizing the High Pressure Side

S7.1.2 of the final rule states that, ''Any shutoff valve at the fuel container is in the open position.'' AAMA states in its petition that some CNG fuel systems include additional manual shutoff valves in the high pressure side of the fuel system, and that these valves must also be open so that pressure is distributed to the entire high pressure side of the fuel system. If these valves are closed, the vehicle test conditions would not simulate, to the extent practicable, conditions present in a real world crash. These observations led that organization to conclude that the final rule is not reasonable or practicable. In addition, AAMA stated that this aspect of the final rule does not meet the need for motor vehicle safety. This is because manual valves located downstream from the pressure measurement point, if closed, would seal off part of the high pressure side of the fuel system. Thus, pressure measurement upstream of the closed valve would not detect a leak in the sealed off, high pressure portion of the fuel system.

AAMA stated that an appropriate corrective action would be to amend S7.1.2 to state that ''* * * normal operating pressures. All manual shutoff valves are to be left in the open position.'' AAMA's suggested language is underlined.

After reviewing AAMA's recommendation about shutoff valves, NHTSA has decided to amend S7.1.2 to state ''All manual shutoff valves are to be in the open position.''

The agency believes that this change is consistent with the goal in S7.1.2 which is to have the vehicle test conditions be representative of real world crash test conditions and to meet the need for motor vehicle safety. The agency was not aware that there may be manual shutoff valves within the high pressure portion of the fuel system other than those located at the fuel containers. In addition, the phrase in S7.1.2 stating ''Any shutoff valve * * *'' was meant to refer to manual shutoff valves. Based on the above consideration, NHTSA has decided to adopt AAMA's request concerning pressurizing the high pressure side.

Pressure Measurement Location

AAMA stated that the final rule does not specify how fuel system pressure is to be accessed for measurement. In its response to the January 1993 NPRM, AAMA stated that it

> * * * is concerned about adding pressure transducers to points in the fuel line solely for purposes of conducting the test. Doing so creates a point of potential leakage where a fitting joint does not exist in a non-test vehicle.

AAMA stated that if a NHTSA contractor were to test for compliance by creating such a pressure measurement point, AAMA member companies likely would object, pointing out that the fuel system on the vehicle has been disrupted and therefore would not be representative of the vehicle as manufactured. AAMA stated that it is not reasonable, practicable, or appropriate to have a final rule that is silent on where the pressure is to be measured, thereby leaving its selection to the discretion of a NHTSA test contractor.

AAMA stated that an appropriate corrective action would be to add a new S7.1.8, which states, ''*The pressure drop measurement specified in S7.2 (sic) is to be made using a location recommended by the vehicle manufacturer.*'' AAMA's proposed language is underlined. (Note: NHTSA has verified with AAMA that it intended to reference S5.2 rather than S7.2 in this statement.)

NHTSA agrees with AAMA's assessment. Based on additional comments obtained from AAMA in response to the January 1993 NPRM, the agency understands that vehicle manufacturers will be providing a tap point on the vehicle's fuel system where pressure measurement is to be obtained. It would be consistent with the intent of Standard 304 if that pressure measurement of the fuel system were made at the location specified by the vehicle manufacturer. Accordingly, AAMA's petition concerning pressure measurement location is granted.

Miscellaneous Correction

NHTSA is also making a word correction to one of the definitions in S4, which AAMA pointed out in its petition. The definition for *CNG fuel container* currently reads *CNG full container.* Therefore, the word *full* is changed to *fuel.*

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''non-significant'' under the Department of Transportation's regulatory policies and procedures.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Information available to the agency indicates that currently there are very few businesses manufacturing passenger cars or light trucks for CNG use. The agency further believes that as the market expands for CNG vehicles, original vehicle manufacturers will begin to produce CNG vehicles because they will be able to do so at less expense than final stage manufacturers and alterers. Few, if any, original vehicle manufacturers which manufacture CNG vehicles are small businesses.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will have no adverse impact on the quality of the human environment. On the contrary, because NHTSA anticipates that ensuring the safety of CNG vehicles will encourage their use, NHTSA believes that the rule will have positive environmental impacts since CNG vehicles are expected to have near-zero evaporative emissions and the potential to produce very low exhaust emissions as well.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require

submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50.

2. Section 571.303 is amended by revising the definition of *CNG fuel container* in S4, revising S7.1.2, and adding S7.1.8 to read as follows:

§ 571.303 Standard No. 303; Fuel system integrity of compressed natural gas vehicles.

* * * * *

S4. Definitions.

* * * * *

CNG fuel container means a container designed to store CNG as motor fuel onboard a motor vehicle.

* * * * *

S7.1.2 After each fuel storage container is filled as specified in S7.1.1, the fuel system other than each fuel storage container is filled with nitrogen, N_2, to normal operating pressures. All manual shutoff valves are to be in the open position.

* * * * *

S7.1.8 The pressure drop measurement specified in S5.2 is to be made using a location on the high pressure side of the fuel system in accordance with the vehicle manufacturer's recommendation.

* * * * *

Issued on: January 4, 1994.

Ricardo Martinez,

Administrator.

[FR Doc. 95–464 Filed 1–9–95; 8:45 am]

BILLING CODE 4910–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1011, and 1130

[Ex Parte No. MC–219]

Implementation of Section 4 of the Negotiated Rates Act of 1993

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of final rules.

SUMMARY: The Commission is adopting final rules to implement section 4 of the Negotiated Rates Act of 1993. These rules provide a mechanism for obtaining Commission review of motor carrier and shipper resolutions of overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed-upon rates in compliance with 49 U.S.C. 10761 and 10762.

EFFECTIVE DATE: The rules are effective February 9, 1995.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 927–5180. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (NPR) in Ex Parte No. MC–219, *Implementation of Section 4 of the Negotiated Rates Act* (not printed), served March 4, 1994, and published at 59 FR 11240, March 10, 1994, we proposed rules which would implement section 4 of the Negotiated Rates Act of 1993 (NRA), Pub. L. No. 103–180. The NPR proposed a mechanism for obtaining Commission review of motor carrier and shipper resolutions of overcharge and undercharge claims. These claims result from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed-upon rates in compliance with 49 U.S.C. 10761 and 10762.

The NPR proposed two alternate methods of settlement. Under the first method, a petition to depart from the filed rate would be filed which would become equivalent to an order of the Commission after 45 days if it was not protested or investigated; the second method would require a formal order to be issued in all instances, whether or not there was a protest or investigation. The NPR also proposed standards for the information required to be included in a petition to depart from the filed rate, and set a filing fee of $70.

Nine comments were received. In response to these comments, we are modifying the information required to be included in a petition, and we will permit either a carrier or a shipper to file a petition. We will also adopt the first method of settlement and filing fees of $40 and $80, depending on the amount involved in the petition.

Consolidated Freightways Corporation of Delaware states that the proposed rules are too burdensome in requiring written Commission orders in all cases, prefiling of the petitions for relief, and a docketing fee on insignificant amounts. Also, it is concerned that the proposed rules do not clarify that multiple tariff errors may be resolved by a single filing. The final rules will not require an order on any uncontested petition. Also, while each petition should encompass only one shipper or one consignee, it can include multiple tariff errors. However, we will require payment of a fee for all petitions.

D&J Associates, a freight transportation consulting firm, is concerned that the proposed rules apply only to publishing errors and not to billing errors and overcharge claims based on published and timely filed rates. In this regard section 4 of the NRA is very clear; it applies only to overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates. Thus, the concerns of D & J Associates need not be addressed further.

The National Industrial Transportation League (NITL) states that the proposed procedures are too complex and formalistic. First, it argues that they will prevent the parties from quickly and efficiently resolving paperwork errors. We agree, and will simplify the requirements for information to be included in each petition. Also, NITL is concerned that any private party, even though not a party to the transportation at issue, could protest petitions. We do not consider this to be a significant problem. The right of any interested party to protest a petition has been part of the rail special docket procedures for a number of years, without causing any problems.

The Transportation Brokers Conference of America generally endorses the proposed rules. However, it favors the method whereby an uncontested petition automatically becomes an order of the Commission after 45 days. We are adopting this method in the final rules.

The National Motor Freight Traffic Association, which publishes the National Motor Freight Classification on behalf of its member carriers, generally supports the proposed rules. However, it suggests that a notice should be published by the Commission when a petition concerning classification matters is investigated on the Commission's own motion or is protested. We consider this publication to be unnecessary. Petitions will concern tariff publishing errors or the failure to publish agreed-upon rates, covering primarily discounts or